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FISCAL IMPACT REPORT

ORIGINAL DATE 2-4-2007
 SPONSOR Nava LAST UPDATED 3-1-2007 HB _____
 SHORT TITLE Lottery Scholarships for Disabled Students SB 689/aSF1
 ANALYST Dearing

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY07	FY08	FY09		
	*\$0.1	*\$0.1	Recurring	Lottery Scholarship Fund
	*Please see narrative	*Please see narrative		

(Parenthesis () Indicate Revenue Decreases)

Duplicates House Bill 571

SOURCES OF INFORMATION

LFC Files

Responses Received From

Higher Education Department (HED)

SUMMARY

Synopsis of Senate Floor Amendment

Action on the Senate Floor amends Senate Bill 689 such that all references within Sections 21-1-4 3 NMSA 1978 (Laws 1996, Chapter 71, Section 3), Section 21-13-10 NMSA 1978 (Laws 1963, Chapter 17, Section 9) and Section 21-16-10.1 NMSA 1978 (Laws 1996, Chapter 71, Section 6) will now refer to the lottery program as the “Legislative Lottery Scholarship Program.”

Synopsis of Original Bill

Senate Bill 689 would amend Sections 21-1-4 3 NMSA 1978 (Laws 1996, Chapter 71, Section 3), Section 21-13-10 NMSA 1978 (Laws 1963, Chapter 17, Section 9) and Section 21-16-10.1 NMSA 1978 (Laws 1996, Chapter 71, Section 6) to establish a lengthened period of eligibility for the Lottery Success Scholarship program to students with disabilities requiring special accommodations. The bill prescribes policies and procedures for administration of provisions of the act and establishes a longer period of eligibility for scholarship award recipients. Subject to

appropriations by the Legislature, the Higher Education department would direct disbursements from the Lottery Scholarship fund to disabled student award recipients for up to 14 consecutive semesters, provided the students maintain at minimum 6 credit hours. Circumstances regarding the necessity of a lengthened eligibility period would be determined at each institution's disabled student liaison or office on a case-by-case basis; with each office or student liaison determining the individual student's "full-time" load and the maximum allowable semesters of awards eligibility for that student. Finally, as written, the act amends several clauses within these sections to make the law parallel with current agency names and incorporate current terminology.

FISCAL IMPLICATIONS

*Senate Bill 689 carries no direct appropriation from the Lottery Scholarship fund.

Under the current law, students at New Mexico institutions are ineligible for scholarship awards *after* a determined length of time; four consecutive semesters in the case of public university institutions (4-year schools), 2 consecutive years at community colleges and vocational institutions (2-year schools).

For students with disabilities, the university, community college, or vocational institutions appropriate office or administrator would make a determination of adequate term of eligibility and individualized course load. This determination would take specific factors regarding the students need for special accommodations when determining term and course-load.

Enactment of Senate Bill 689 would increase the disbursements from the Lottery Scholarship fund for some students with disabilities requiring special accommodations.

According to the Higher Education department, a reasonable estimate of the current and future award recipients the amended legislation would apply to is indeterminate.

SIGNIFICANT ISSUES

***The possibility exists that increased terms of eligibility for an unknown, undefined number of students with disabilities would place some fiscal pressure on the Lottery Scholarship fund.**

*As written, Senate Bill 689 does not establish differential eligibility terms for 2-year community colleges, vocational institutions, and 4-year universities. *The legislation would allow up to 7 years of eligibility for students with disabilities in all three scholastic environments.* Currently, relevant sections of statute stipulate differential terms of eligibility for these 3 school types; 4 years for 4-year schools, and 2 years for either of the 2-year school types (community colleges or vocational institutions).

While there would be an institutional determination made for each student's case, *the legislation does not define students with disabilities beyond "requiring special accommodations."*¹

¹ For Instance, in 2004, nearly 1 out of 10 students registered or sought consultation with disability services at the Catholic University of America; with an average annual increase on requests of disability services at 10%. Source: *A Preventive Law and Policy Approach to Managing Student Disability Issues; 26th Annual Law & Higher Education Conference Post-Conference Seminar: The Current State of Disability Law, February 23, 2005. Bonnie McClellan, Margaret L. O'Donnell, and Craig W. Parker. <http://counsel.cua.edu/ADA/publications/Stetson%20Outline%20-%20Parker%20%20McClellan%20-%20Final%20Version.doc>*

Students with disabilities *are* currently eligible for the scholarship if they meet the established qualifications. The Higher Education department does not have a reasonably accurate estimate as to how many students with disabilities do not (cannot) qualify for the scholarship because they cannot complete 12 credit hours.

Lastly, the amendment proposed in this bill does not include language specifying that students must be “degree-seeking;” (i.e. a clause requiring program progression in order to maintain eligibility). In certain cases, as written, the proposed legislation could allow students at community colleges and vocational institutions up to 5 extra years of Lottery eligibility and payments, and up to 3 extra years of Lottery eligibility and payments for students at 4-year schools.

While the net-effect of this legislation could possibly be minimal, there is no clarification in the proposed language to establish how many students this would apply to, and there is no limiting language to mandate students must be pursuing degree status.

ADMINISTRATIVE IMPLICATIONS

The primary administrative impact of this legislation would fall to the New Mexico Higher Education Department and to New Mexico postsecondary institutions.

DUPLICATION

Senate Bill 689 duplicates House Bill 571.

TECHNICAL ISSUES

Little clarification exists in the definition of “students with disabilities.” Clarification is necessary to establish the scope and scale of eligibility and examples of eligible conditions in order to determine the ultimate fiscal impact on the Lottery Scholarship fund.

OTHER SUBSTANTIVE ISSUES

The current qualifications for the Lottery Success Scholarship are:

- Must be a New Mexico resident;
- Must have graduated from a New Mexico public or accredited private high school, or have obtained a New Mexico GED;
- Must be enrolled full time (12 credit hours) at an eligible New Mexico public college or university, in the first regular semester immediately following high school graduation; and
- Must obtain and maintain at least a 2.5 GPA.

In the agency response for the duplicate bill, House Bill 571, the Higher Education department states that:

...according to the Public Education Department, as reported from the Accountability Data System (ADS); 18,807 students graduated from high school in 2005, and 2,559 were students with disabilities," or 13.6 percent. Data on the number of these students continuing on to postsecondary studies and qualifying for the Lottery Success Scholarship is not available.

Title II of the Americans with Disabilities Act of 1990 (ADA) mandates that a postsecondary institution must make reasonable accommodations to students with disabilities. Reasonable accommodations provide students with disabilities with an equal opportunity that allows them to participate in university/college courses, programs, and activities. Universities/colleges must make academic adjustments to allow students an equal opportunity to participate. Academic adjustments may include extended time for testing, completion of course work or graduation, and substitution of specific courses to meet degree requirements. Universities/colleges do not have to provide accommodations that would essentially modify the educational program or academic requirements which are essential to a program of study or fulfill licensing requirements.

PD/nt